



DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-850]

Silicon Metal from Brazil: Affirmative Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that imports of silicon metal from Brazil are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2016, through December 31, 2016. The final margins of sales at LTFV are listed below in the “Final Determination” section of this notice.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Brian Smith or Jesus Saenz, AD/CVD

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SUPPLEMENTARY INFORMATION:

Background

On October 12, 2017, Commerce published the *Preliminary Determination* of sales at LTFV of silicon metal from Brazil.¹ Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce’s practice, the deadline will

¹ See *Silicon Metal From Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 82 FR 47466 (October 12, 2017) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

become the next business day. The revised deadline for the final determination of this investigation is now February 27, 2018.²

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.³

Scope of the Investigation

The product covered by this investigation is silicon metal from Brazil. For a full description of the scope of this investigation, see the “Scope of the Investigation” in Appendix I of this notice.

Scope Comments

During the course of this investigation, Commerce received numerous scope comments from interested parties. Prior to the *Preliminary Determination*, Commerce issued a Preliminary Scope Decision Memorandum⁴ to address these comments. Since the *Preliminary Determination*, Globe Specialty Metals, Inc. (the petitioner), submitted a case brief and interested parties submitted rebuttal briefs concerning the limits to silicon content as specified in the scope.⁵

² See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

³ See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Silicon Metal from Brazil,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See Memorandum, “Silicon Metal from Australia, Brazil, Kazakhstan, and Norway: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated June 29, 2017 (Preliminary Scope Decision Memorandum).

⁵ These parties include Wacker Chemicals Norway A.S., Elkem AS, and the petitioner.

Commerce reviewed these briefs, considered the arguments therein, and is making no additional changes to the scope of the investigation. For further discussion, see Commerce's Final Scope Decision Memorandum.⁶ The scope in Appendix I reflects the final scope language.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in the investigation are addressed in either the Final Scope Decision Memorandum or the Issues and Decision Memorandum accompanying this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, Room B-8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), from October 2017 through January 2018, we conducted verification of the sales and cost information submitted by respondent Palmyra do Brasil Indústria e Comércio de Silício Metálico e Recursos Naturais Ltda. (Palmyra) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and

⁶ See Memorandum, "Silicon Metal from Australia, Brazil, Kazakhstan, and Norway: Final Scope Comments Decision Memorandum," dated February 27, 2018 (Final Scope Decision Memorandum).

original source documents provided by Palmyra.⁷

Changes Since the *Preliminary Determination*

We made certain changes to the *Preliminary Determination* for Palmyra based on the additional questionnaire responses received after our *Preliminary Determination*, verification findings, and our review and analysis of interested party comments. For further discussion, *see* the Issues and Decision Memorandum.

Use of Adverse Facts Available

The respondent Ligas de Aluminio S.A. - LIASA (LIASA) failed to participate in this investigation. Therefore, in the *Preliminary Determination*, pursuant to sections 776(a)(1), 776(a)(2)(A)-(C), and 776(b) of the Act, Commerce assigned LIASA a rate based on adverse facts available (AFA). No party filed comments on our *Preliminary Determination* with respect to LIASA and there is no new information on the record that would cause us to revisit it. Accordingly, we continue to find that the application of AFA pursuant to section 776(a) and (b) of the Act is warranted with respect to LIASA. In applying total AFA, Commerce assigned to LIASA's exports of the subject merchandise the rate of 134.92 percent, which is the highest rate calculated in the petition⁸ and which has been corroborated to the extent practicable within the meaning of section 776(c) of the Act.

All-Others Rate

⁷ For discussion of our verification findings, *see* the following memoranda: Memorandum to the File, "Verification of the Sales Response of Palmyra do Brasil Indústria e Comércio de Silício Metálico e Recursos Naturais Ltda. in the Antidumping Investigation of Silicon Metal from Brazil," dated January 19, 2018; Memorandum to the File, "Verification of the Sales Response of Dow Corning Corporation and Hemlock Semiconductors Operations LLC in the Antidumping Investigation of Silicon Metal from Brazil," dated January 17, 2018; Memorandum to the File, "Verification of the Cost Response of Palmyra do Brasil Indústria e Comércio de Silício Metálico e Recursos Naturais Ltda. in the Antidumping Duty Investigation of Silicon Metal from Brazil," dated January 17, 2018; and Memorandum to the File, "Verification of the Cost Response of Dow Corning in the Antidumping Duty Investigation of Silicon Metal from Brazil," dated January 17, 2018.

⁸ *See* Petitions for the Imposition of Antidumping and Countervailing Duties: Silicon Metal from Australia, Brazil, Kazakhstan, and Norway, dated March 8, 2017 (the Petition), Volume IV at 8-9.

Section 735(c)(5)(A) of the Act provides that, in the final determination, Commerce shall determine an estimated weighted-average dumping margin for all-other exporters and producers not individually examined. This rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters or producers individually examined, excluding rates that are zero, *de minimis* or determined entirely under section 776 of the Act. As Commerce determined an estimated weighted-average dumping margin based entirely under section 776 of the Act for LIASA, we have determined the estimated weighted-average dumping margin for all other producers and exporters equal to the rate calculated for Palmyra.

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter or Producer	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy Offset(s)) (percent)
Palmyra do Brasil Indústria e Comércio de Silício Metálico e Recursos Naturais Ltda. (formerly known as Dow Corning Silício do Brasil Indústria e Comércio Ltda.)	68.97	68.87 ⁹
Ligas de Alumínio S.A. - LIASA	134.92	133.49 ¹⁰
All-Others	68.97	68.87 ¹¹

Disclosure

Commerce intends to disclose to interested parties its calculations and analysis performed in this final determination within five days of any public announcement in accordance with 19 CFR 351.224(b).

⁹ See Memorandum to the File, “Final Cash Deposit Rates” dated February 27, 2018.

¹⁰ *Id.*

¹¹ *Id.*

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for this final determination, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of silicon metal from Brazil, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after October 12, 2017, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*.

Further, the Department will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above, adjusted where appropriate, for export subsidies found in the final determination of the companion countervailing duty investigation. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit equal to the amount by which the normal value exceeds the U.S. price, less the amount of the countervailing duty determined to constitute any export subsidies.¹²

Therefore, in the event that a countervailing duty order is issued and suspension of liquidation is resumed in the companion countervailing duty investigation on silicon metal from Brazil, the Department will instruct CBP to require cash deposits adjusted by the amount of export subsidies, as appropriate. These adjustments are reflected in the final column of the rate chart, above. Until such suspension of liquidation is resumed in the companion countervailing duty investigation, and so long as suspension of liquidation continues under this antidumping duty investigation, the cash deposit rates for this antidumping duty investigation will be the rates identified in the estimated weighted-average dumping margin column in the rate chart, above.

¹² See, e.g., *Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value*, 80 FR 61362 (October 13, 2015), and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea*, 77 FR 17413 (March 26, 2012).

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of silicon metal from Brazil no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Notification Regarding Administrative Protective Orders

This notice will serve as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act and 19 CFR 351.210(c).

Dated: February 27, 2018.

Christian Marsh,
Deputy Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The scope of this investigation covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of this investigation.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum:

- I. Summary
- II. Background
- III. Changes Made Since the Preliminary Determination
- IV. Discussion of Methodology
- V. Date of Sale
- VI. Product Comparisons
- VII. Constructed Export Price
- VIII. Normal Value
- IX. Currency Conversion
- X. Adjustment for Countervailable Export Subsidies
- XI. Discussion of the Issues:
 - Comment 1: Proper Basis for U.S. Price
 - Comment 2: Treatment of Non-Brazilian Silicon Metal in Calculating Further-Manufacturing Costs
 - Comment 3: Adjustments to Dow Corning's Further-Manufacturing Costs
 - Comment 4: Differential Pricing
 - Comment 5: Treatment of Certain Sales to an Unaffiliated Toller
 - Comment 6: Treatment of Downstream Sales to Affiliated Customers
 - Comment 8: Minor Corrections
- XII. Recommendation

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